IN THE

Supreme Court of the United State

No. 71-6278

CONDRADO ALMEIDA-SANCHEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIEF FOR THE PETITIONER

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OPINION BELOW

The opinion of the Court of Appeals (A. 20-35) is reported at 452 F.2d 459.

JURISDICTION

The judgment of the Court of Appeals was entered on September 27, 1971. An order denying, by a split vote, the petition for rehearing and rejecting, by a divided vote, the suggestion for a hearing en banc was entered on February 3, 1972. The Petition for Certiorari was filed on

March 3, 1972 and was granted on May 22, 1972. The jurisdiction of this Court rests upon Title 28 U.S.C. 1254(1).

CONSTITUTIONAL, STATUTORY AND REGULATORY PROVISIONS INVOLVED

The following portion of the Fourth Amendment of the Constitution of the United States:

"... the right of the people to be secure in their persons ... and effects against unreasonable searches and seizures ... and no warrants shall issue but upon probable cause ...".

8 U.S.C. §1357(a)(3) reads:

"(a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five (25) miles from any such external boundaries to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States; ..." (A. 21-22)

8 C.F.R. §287.1 sub. (a) (2) reads:

"*Reasonable distance.* The term 'reasonable distance,' as used in §287(a)(3) of the Act, means within 100 air miles from any external boundary of the United States or any shorter distance which may be fixed by the District Director, or, so far as the power to board and search aircraft is concerned, any

distance fixed pursuant to paragraph (b) of this section." (A. 22)

QUESTIONS PRESENTED

1. Whether a violation of the petitioner's constitutional rights was properly adjudicated by the Court of Appeals for the Ninth Circuit, when " . . . the decisions relied upon by the majority are so clearly at odds with the requirements of the Fourth Amendment . . ."? (A. 23).

2. Whether the search in question could be deemed reasonable under the mandates of the Fourth Amendment of the Constitution?

3. Whether the Ninth Circuit " . . . alone among the Courts of Appeals," (A. 26-27) may expressly refuse to impose the probable cause restriction upon searches for illegally entered aliens conducted by Immigration and Naturalization officers pursuant to 8 U.S.C. §1357(a)(3) and 8 C.F.R. §287.1(a)(2)?

4. Whether the search in question could qualify as a "border search"?

STATEMENT

On June 25, 1970, the petitioner, was found guilty by a jury, of Count-two of an indictment in violation of Title 21, U.S.C. §176(a) charging that petitioner knowingly received, concealed and facilitated the transportation and concealment of marihuana. A previous trial on June 22, 1970 resulted in a mistrial since the jury was unable to reach agreement. (A. 2, 7)

Petitioner appealed the conviction, solely on the point that the Court denied his motion for suppression of the evidence on the basis on an illegal search and seizure. Said motion was heard and decided on a stipulated set of facts (A. 11-13). The facts showed that petitioner was stopped in an automobile by Immigration and Naturalization officers who were maintaining a *roving check of vehicles and persons* on Highway 78 approximately 50 miles north of the Mexican border on the road from Calexico, California to Blythe, near Glamis, California (emphasis added). The officers stopped petitioner's vehicle for the specific purpose of checking for aliens. After determining he was a resident alien entitled to reside and work in the United States, and prior to finding any contraband, they inquired of petitioner as to where he had come from. He said, "from Mexicali (Mexico), and was going to leave the car in Blythe and return to Mexicali by bus." He stated to the officers, "that he had picked up the car on Second Street in *Calexico, California*" (emphasis supplied, A. 5).

In searching the vehicle for aliens, pursuant to the above Statute and Regulation, without benefit of a search warrant or arrest warrant, the officers found marihuana under the rear seat and hidden throughout various parts of the vehicle.

Petitioner was committed to the custody of the Attorney General for a period of five (5) years, and was sent to the Federal Penitentiary at Terminal Island. He was paroled from said penitentiary on January 31, 1972, and deported to Mexicali, Baja, California, Mexico.

SUMMARY OF ARGUMENT

The circumstances surrounding the stop and search of petitioner's vehicle for hidden aliens were not such that could justify the search under the exceptions to the rule found in *Carroll v. United States*, 267 U.S. 132. The government relies strictly on the Statute and Regulation permitting searches of vehicles for aliens within 100 miles of an external boundary of the United States, as justification for the search. 8 U.S.C. §1357(a)(3), 8 C.F.R. §287.1(a)(2).

The vehicle petitioner was driving was stopped at random during a roving check for illegal aliens, by officers of the Immigration Service approximately 50 miles from the external boundary of the United States.

The officers were told by petitioner that he had come from Mexicali (Mexico), but that he had picked up the car in Calexico, California. The officers had no information that the car had ever crossed the border.

After the officers determined that petitioner was legally within the United States, and therefore entitled to travel its highways, the officers proceeded to search under the rear seat for aliens, but found none. This is in strong contrast to the guidelines laid down by this Court in *Carroll supra*, justifying the searches of vehicles for contraband.

There had been no surveillance or circumstances causing suspicion of this particular vehicle. Therefore, absent such, the officers could not have made a valid "border search" for concealed contraband without the reasonable certainty required by the Ninth Circuit in *Alexander v. United States*, 362 F.2d 379 at 382-383.

It is illogical to extend the right to search to include a random stop of a vehicle without probable cause or any of the other safeguards to the Fourth Amendment principles merely because the officers are searching for aliens and not contraband.

The evidence found in the vehicle as a result of such illegal search should have been suppressed pursuant to the *Federal Rules of Criminal Procedure*, Rule 41(e).

This Court has not considered the constitutionality of the subsection in the Statute involved. As stated in *Coolidge v. New Hampshire*, 403 U.S. 443 at 479, "... The stopping of a vehicle on the open highway and a subsequent search amount to a major interference in the lives of the occupants ...." The Statute itself, *supra* (a) (3), expressly prohibits the search for aliens in dwellings within twenty-five (25) miles of the external boundary, although permitting access to private lands within those limits. By implication, access to private lands outside the twenty-five (25) mile limit are prohibited, while searches of vehicles up to 100 miles are allowed. The greater intrusion is logically the search of the vehicle.

Assuming the officers had authority under 8 U.S.C. §1357(a)(1) to interrogate petitioner as to his right to be or remain in the United States, his Fourth Amendment rights were violated by the subsequent search of the vehicle without a warrant, without probable cause, and without reasonable certainty under all of the circumstances that aliens were in fact hidden therein.

ARGUMENT

I.

THE IMMIGRATION OFFICER'S SEARCH UNDER THE AUTHORIZING STATUTE DENIES PETITIONER'S RIGHTS AND PROTECTIONS AFFORDED BY THE FOURTH AMENDMENT

A. Rights and Protections under the Fourth Amendment

The Fourth Amendment guarantees the right of individuals to be free from general searches not based upon probable cause and without prior approval of a neutral magistrate. "The basic purpose of this Amendment, (Fourth) as recognized in countless decisions of this Court, is to safeguard the privacy and security of individuals against arbitrary invasions by government officials." *Camara v. Municipal Court*, 387 U.S. 523, 528 (1967). The general rule in the area of search and seizure is subject only to a few well-established exceptions. The "Founding Fathers" in establishing our fundamental constitutional concepts, especially that of the individual's right to privacy, determined that such should not be transgressed by legislative enactment. One of this Court's main responsibilities since its inception has been to safeguard these rights, in terms of the facts and circumstances of the age in which they were challenged. Though times may change:

> " . . . It is the duty of Courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon. Their motto should be *obsta principiis*. We have no doubt that the legislative body is actuated by the same motives, but the vast accumulation of public business brought before it sometimes prevents it, on a first presenta-

tion, from noticing objections which become developed by time and the practical application of the objectionable law." *Boyd v. United States* 116 U.S. 616 (1885).

In review of a recent State Court decision, the Court emphasized the continued protection of these principles in stating "... that no amount of probable cause can justify a warrantless search or seizure absent 'exigent' circumstances ..." *Coolidge, supra.*

B. Applicable Exceptions to the Rule.

Due to the mobility of an automobile an exception has been propounded to enable officers to conduct a warrantless search, since an automobile containing evidence of a crime could disappear before a warrant could be obtained. This exception is recognized in *Carroll, supra,* at 153-154:

"Having thus established that contraband goods concealed and illegally transported in an automobile or other vehicle may be searched for without a warrant, we come now to consider under what circumstances such a search may be made. It would be intolerable and unreasonable if a prohibition agent was authorized to stop every automobile on the chance of finding liquor and thus subject all persons lawfully using the highways to the inconvenience and indignity of such a search. Travelers may be so stopped in crossing an international boundary because of national self-protection reasonably requiring one entering the country to identify himself as entitled to come in, and his belongings as effects which may be lawfully brought in. But those lawfully within the country, entitled to use the public highways, have a right to free passage without interruption or search unless there is known to a

competent official authorized to search, probable cause for believing that their vehicles are carrying contraband or illegal merchandise . . . ".

Under the circumstances of a *Carroll* search the vehicle may be seized and taken to a police station where it may be searched for evidence. *Chambers v. Maroney*, 399 U.S. 42 (1970). Specifically *Carroll supra* recognizes the "border search" exception due to the inherent right of sovereignty to protect its territorial integrity against intrusion of unauthorized *persons* or things.

Under our facts, the search of the vehicle was conducted approximately 50 miles from the border. The officers had no information concerning Petitioner or the vehicle to indicate that it had actually crossed the border, but rather the car was stopped and searched at random without a search warrant. In *Henry v. United States*, 361 U.S. 98 at 104 (1959), the Court explained that:

> " . . . *Carroll v. United States, supra*, liberalized the rule governing searches when a moving vehicle is involved. But that decision merely relaxes the requirements for a warrant on grounds of practicality. It did not dispense with the need for probable cause."

II.

A ROVING CHECK LACKS THE REASONABLENESS NECESSARY FOR A CONSTITUTIONAL SEARCH

The Solicitor General contends that some searches authorized by the statute might arguably be unreasonable; but that the search in this case, although without probable cause, was reasonable under the circumstances. The subsection of the statute involved 8 U.S.C.

§1357(a)(3) does not contain a "reasonableness" standard and this omission goes to the heart of the search involved. The search authorized by the statute must be either reasonable and therefore constitutional *or* unreasonable and unconstitutional under the mandates of the Fourth Amendment. It is illogical to state that it can be both constitutional and unreasonable.

As Judge Browning comments in his opinion:

> "... In the present case, so far as the record shows, the Immigration officers had no grounds "reasonable" or otherwise, for stopping appellant. His car was selected at random from those moving north on Highway 78. Even if the officers had grounds for the stop, they had no reason to believe that appellant was armed, and the search they conducted was not confined to that necessary to locate concealed weapons." (A. 33)

In *Carroll, supra* at 141, the Court comments "... the mere fact that general searches of the vehicles may help to enforce the Eighteenth Amendment does not make those searches reasonable." It would therefore follow that a random stop and search of a vehicle to enforce an Act of Congress, would not make such a search reasonable. Courts have labored to determine whether information presented to a magistrate or that available to a police officer was reliable and sufficient to justify a search under countless factual circumstances. A roving stop and search meets none of the standards necessary to justify an intrusion upon the privacy of the individual. Literally millions of United States citizens travel the highways within 100 miles of the external boundaries of the United States, and therefore are subject to a major interference in their lives, by having their vehicles stopped and

searched at any time, or any place within the distance enunciated by the Regulation.

III.

THE NINTH CIRCUIT ALONE EXPRESSLY HOLDS SUCH SEARCHES FOR ALIENS AS REASONABLE

The Ninth Circuit decisions, relating to searches for aliens authorized by the Statute, carry no true safeguards to Fourth Amendment principles. The cases cited by the majority herein are interesting to note since various statements seem to suggest that the statutory grant is open to qualifications, while holding that it is not.

In *Duprez v. United States*, 435 F.2d 1276 (9th Cir. 1970), a checkpoint station was located approximately 75 miles from the Mexican border. The driver proceeded through the checkpoint traveling 35 miles per hour, and after pursuit, stopped his car and fled from the officers on foot. The Court brings out the fact that Border Patrol officers have a duty to *determine alienage* of persons suspected to be in the United States illegally and states that under the present facts they not only had the right to stop and *investigate* vehicles for concealed aliens, but could justify the search on grounds of probable cause due to the evasive action.

Fumagalli v. United States, 429 F.2d 1011 (9th Cir. 1970), involved the search of an automobile trunk, *at a regularly maintained checkpoint*, on Highway 78 about 49 miles north of the border.[1] After asking the driver to

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[1]It is interesting to note this appears to be approximately one mile from the area of search in the instant case, wherein it was stipulated that Highway 78 does *not* have an established checkpoint.

open the trunk, the officer smelled marihuana and saw a brick of marihuana in plain sight protruding from a duffel bag. The search of the trunk was held justified under the Statute as an immigration search within approved limits and further that probable cause was present to search, due to the officer's observations of the contraband. In a footnote (at 1013, n. 4) the Court states: . . . "Here the search *not only* took place within these limits (*100 miles*) but was at an established checkpoint." (Emphasis added.) This implies that the authority to conduct searches at a checkpoint is even stronger than a search away from one and suggests thoughts of a qualification to the rule.

Factually, *Miranda v. United States*, 426 F.2d 283 (9th Cir. 1970) seems to be the purest example cited of a search based strictly on the Statute. The search therein was under the hood of a 1968 Chevrolet. The appellant appeared nervous, and his hand shook violently as he took the key out of the ignition and tried to open the hood. The Court held the search was justified since the officer testified he had in the past found aliens under the hood of a vehicle, despite appellant's argument that this was inconceivable and that it was physically impossible for an alien to be hidden there.

In the present case, the officer searching the vehicle had not personally found aliens hidden under the rear seats of vehicles but had merely heard of it on several occasions and had information from the headquarters of the Border Patrol advising that such was done. Under the rational of *Miranda, supra*, personal knowledge seems to be drawn into issue, again suggesting some hint of possible qualifications to the rule.

An interesting case, somewhat bridging the gap, is that of *Valenzuela-Garcia v. United States*, 425 F.2d 1170

(9th Cir. 1970), involving the search at a checkpoint of an automobile trunk, wherein marihuana was discovered between the trunk panel and automobile walls. In this case the appellant conceded the authority under the statute to open the trunk in searching for aliens. The Court decided that the search was not lawful, despite the apparent nervousness of appellant and the fact that the trunk floor was dusty with no dust on the panels, since the Court did not reasonably feel an alien could be hidden in that area of the car.

The Court in *Valenzuela*, further quoted from *Contreras v. United States*, 291 F.2d 63 (9th Cir. 1961):

> "... If the search cannot be justified as a reasonable means of determining the citizenship status of the car's occupants, it cannot be justified in any other way under the rubric of probable cause."

The Tenth Circuit in *Roa-Rodriguez v. United States*, 410 F.2d 1206 (1969), held the search of a jacket, in the trunk of a vehicle, for evidence as to the right of an alien to remain in the United States was not justified after an illegal arrest and without probable cause. The search was 90 miles from the border, and the Court indicates the inspectors were justified in stopping the car, but not in conducting a general search for contraband. There is dictum to the effect that under the circumstances the initial stop and search for aliens was proper.

The Fifth Circuit indicated that the predecessor Statute, 81 U.S.C.A. §110 (as amended 8/7/46), was constitutional in *Kelly v. United States*, 197 F.2d 162 (1952). The search here was at a checkpoint where signs were posted on the highway "warning" the public of the presence of Federal Officers at the checkpoint. Appellant turned his car around short of the checkpoint

and sped away. The search in the trunk of the car, after an ensuing chase, was conducted after appellant told the officer he had a little "shine" in the trunk. The officer's stated objective was to search for aliens; and, therefore, the moonshine found in the trunk was held admissible.

The pitfalls against which the Fourth Amendment protects are such as to call into question the efficacy of permitting officers to state they are searching for aliens while in fact they might have contraband in mind at the same time. Surely, any well-trained officer would find it difficult to state that he was only interested in searching for aliens and not, in fact, contraband.

IV.

THE SEARCH IN QUESTION COULD NOT BE JUSTIFIED UNDER THE BORDER SEARCH EXCEPTION

A. Standards for an Extended Border Search.

The geographically extended border search was initially justified where there was "reasonable cause" to suspect that a person was carrying contraband. *Marsh v. United States*, 344 F.2d 317, 325 (5th Cir. 1965); *Valadez v. United States*, 358 F.2d 721, 722 (5th Cir. 1966).

This doctrine depended upon: 1. the *condition* of a vehicle from the time it crossed the border until it was stopped, and 2. whether there was an *unreasonable time* and *distance* between the border and the place where the search was conducted. *King v. United States*, 348 F.2d 814 (9th Cir.), cert denied, 382 U.S. 926 (1965).

Under the *King* rationale, the original reason for the extended border search, i.e., "reasonable cause to respect," remained, but was supplemented by the similarity of conditions, reasonable time, and reasonable space.

The entanglement of these new elements, with the previously followed doctrine, produced a wide range of decisions, wherein, a combination of the two standards were utilized. See *Valadez, supra*, " . . . a search twenty-five (25) minutes from international border crossing—reasonable . . ."; *Leeks v. United States*, 356 F.2d 470 (9th Cir. 1960) " . . . an extended search fifteen minutes from international border crossing—reasonable . . ."; *Contreras, supra*, " . . . an extended search seventy-two (72) miles from border—unreasonable . . . . " *Alexander, supra* at 382-383, revealed an even more interesting formula for determining the validity of the extended border search, as brought out by Judge Browning in his dissent: (A. 25)

> "Where . . . a search for contraband by Customs officers is not made at or in the immediate vicinity of the point of international border crossing, the legality of the search must be tested by a determination whether the totality of the surrounding circumstances, including the time and distance elapsed as well as the manner and extent of surveillance, are such as to convince the fact finder with reasonable certainty that any contraband which might be found in or on the vehicle at the time of search was aboard the vehicle at the time of entry into the jurisdiction of the United States."

Whereas, a search not related to an entry across a border requires probable cause to be constitutional, see *U.S. v. Ardle*, 435 F.2d 861, 862 (9th Cir. 1971); *U.S. v. Kandlis*, 432 F.2d 132, 135 (9th Cir. 1970); this latest

evolvement of the "border search" doctrine removed the original requirement that the customs officer should have a "reasonable cause to suspect" when the border search is extended. What remains is a diluted "constitutional" standard touched only with a faint requirement of reasonableness and one that affects countless millions "entitled to use the public highways and with *a right* of *free passage*". *Carroll, supra* at 154. (Emphasis added.)

Instead of a citizenry guaranteed the fundamental right of privacy "at home" or "while travelling," they are quite clearly subjected to a "slightly reasonable" search within 100 air miles of an international boundary.

The shrouded danger hinted at in *Murgia v. United States*, 285 F.2d 14 (9th Cir. 1960), and intensified in *King*, was finally developed to its fullest in *Alexander*, and the result is definitely reflected in the present case.

B. Improper Distinctions Are Made Between Searches for Aliens and Searches for Contraband

Clearly, searches for aliens could be upheld under constitutional "border searches," as are searches for contraband. As Judge Browning stated in his dissent: (A. 28)

> "If a reason exists for distinguishing searches for aliens from searches for merchandise, no one—including this Court—has yet suggested what it might be. Nothing in the words of the Constitution supports the distinction. And no one suggests that the public interest in excluding inadmissible aliens is greater than that in excluding narcotics and other contraband."

The Immigration officers involved in the present case, do not even claim that "reasonable cause to suspect," or

that the "totality of the circumstances" gave rise to a reasonably based suspicion of petitioner or the vehicle. They relied upon their blanket statutory authority to search the vehicle for aliens. Even by going so far as to recognize that the search in the present case was not a "border search," the fundamental reasonableness requirement, as amorphous as it is in its modern form, must be respected.

The facts in the present case lend themselves almost point by point with the circumstances mentioned by the Court in *Kandlis, supra*, held as *not* being sufficient to supply the justification to search for contraband.

The Ninth Circuit has quite definitely refused to impose the "probable cause" restriction upon searches for illegal aliens conducted by Immigration and Naturalization officers, and distinguished these from searches for contraband. *Carroll*, does not offer a basis for distinguishing between the types of searches involved, but rather, the searches for aliens and merchandise are placed on equal footing.

C. Constitutional Limits Must Be Included in Interpreting the Statute.

Although Congress' Statutory grant of authority to Immigration officers includes the "power to board and search for aliens any vehicle within a reasonable distance from any external boundary," and one hundred miles is defined as reasonable, it is insufficient to legitimize a denial of constitutional rights.

A more correct interpretation of the legislative intent would be to provide the statute involved, *supra*, with a constitutional reading as proffered by Judge Browning in his Ninth Circuit opinion. Constitutionally, a practical

application of a Statute's language that violates the Fourth Amendment should not survive uncorrected. See e.g. *Boyd v. United States*, 116 U.S. 616 (1886).

In order to stop and search a person or vehicle subsequent to a legitimate entry, as in our case, a customs official should be required to have probable cause in order to protect an individual's privacy, rather than to invade it.

The primary purpose of the border search is to prevent the entrance of contraband and unauthorized persons. Apprehension of criminals is only a secondary effect, not to be promoted by the sacrifice of fundamental rights of the individual. This preventive action should be reasonably accomplished at the border, and not through an unconstitutional device, or an open-ended "100 mile dragnet." The better remedy is not a further diminution of the Fourth Amendment and the rights it secures. 10 Arizona 457, 472 (1968).

The extended border search or "statutory search," exemplified herein, should be conducted with a clarified standard, reasonably enforceable and not devoid of the safeguards afforded by the Fourth Amendment. "Sufficient cause to search" should be the rule and not the exception.

Judge Browning comments that: (A. 31)

"Other provisions of the statute have been held to contain implied limitations consistent with constitutional principles. The constitutional limitations articulated in *Terry v. Ohio*, 392 U.S. 1 (1968), have been read into the first subparagraph of subsection (a) of section 1357, authorizing Immigration officers to interrogate aliens as to their right to be in the United States. *Au Yi Law v. I.&N.S.*, 445 F.2d 217 (D.C. Cir. March 19, 1971). The Fourth Amend-

ment requirement of probable cause has been read into the second subparagraph of section 1357(a), authorizing arrest by such officers. *Ibid.* See also *Yam Sang Kwai v. I.&N.S.*, 411 F.2d 683 (D.C. Cir. 1969).

It is also noteworthy that a further reading of the subsection in question (i.e., §1357(a)(3)) (A. 21-22), permits access to private lands, *but not dwellings*, only within a distance of twenty-five miles from such external boundary, to prevent the illegal entry of aliens into the United States. (Emphasis added.)

Therein exists a legislative exemption of a person's dwelling, no doubt in respect to Fourth Amendment protections. Since " . . . the stopping of a vehicle on the open highway and a subsequent search amount to a major interference in the lives of the occupants . . . " *Coolidge supra*, and since in today's "mobile society" an automobile might be called as much a man's castle as is his dwelling, the "border search" exception and statutory provision should demand scrutiny "showing that the exigencies (or circumstances of the situation) made that course imperative." *McDonald v. United States*, 335 U.S. 451, 456.

When it is considered that this twenty-five mile clause was an addition to the subsection (not present in the section when *Kelly, supra*, was decided) and when by implication even access to private lands past a twenty-five mile limit is forbidden, it would be illogical to assume that Congress intended to permit *major* intrusions of Fourth Amendment guarantees up to one-hundred miles, with *no* safeguards, while prohibiting *minor* trespasses to lands outside twenty-five miles, unless accompanied by constitutional safeguards.

To assume otherwise would be to deny the will of Congress and to reduce the protections of the individual. The public interest in excluding illegal aliens must acknowledgedly be weighed against the rights of the private citizen, but "... a search within the literal language of the statute is nonetheless barred if it violates the Fourth Amendment." *Boyd, supra.* (A. 29)

CONCLUSION

The Petitioner, therefore, through his attorney respectfully requests that whereas:

I. the Statute and Regulation in question violate the mandates of the Fourth Amendment;

II. the search was not reasonable under such mandates;

III. the Ninth Circuit alone should not hold the Statutory searches as justifiable; and,

IV. the search in question was not reasonable under the mandates applicable to a "border search,"

the judgment of the Court of Appeals for the Ninth Circuit be reversed.

Respectfully submitted,

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